



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET NW
WASHINGTON, D.C. 20314-1000

CECW-PB

02 OCT 2006

MEMORANDUM FOR Commander, Northwestern Division

SUBJECT: Clarification of Implementation Guidance for Section 544 of the Water Resources Development Act of 2000

1. Reference is made to CECW-PM memorandum dated 29 December 2003, subject: Implementation of Section 544 of the Water Resources Development Act (WRDA) of 2000.
2. This memorandum serves to clarify and restate the guidance provided in the referenced guidance related to the cost sharing of the projects studied and implemented under this authority.
3. Section 544 of WRDA 2000 distinguishes between the requirements for a feasibility study and the requirements for implementation of projects considered under this authority. Therefore, studies to determine feasibility of a section 544 project are subject to the cost sharing requirements of Section 105(a) of WRDA 1986. Consequently, to clarify the guidance stated in paragraph 3 of the referenced implementation guidance, any feasibility studies conducted under section 544 require 50 percent Federal and 50 percent non-Federal cost sharing. The study will be initially federally funded up to \$100,000. Any remaining feasibility study costs will be shared equally (50/50) with the non-Federal sponsor pursuant to the terms of a FCSA.
4. Paragraph 4 of the referenced guidance indicates that projects may be implemented in accordance with the general procedures for Section 206 Continuing Authorities Program. This reference applies only to the processes used to formulate studies, recommend projects, and approve projects at the MSC level as is done under the Continuing Authorities Program, not to the cost sharing of Section 206 projects.
5. Additional guidance will be forthcoming on the overall implementation of programmatic ecosystem restoration authorities as a result of recent directives from OMB and ASA(CW).

FOR THE COMMANDER:

THOMAS W. WATERS, P.E.
Chief, Policy and Policy Compliance Division
Directorate of Civil Works



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REPLY TO
ATTENTION OF:

CECW-PM

DEC 29 2003

MEMORANDUM FOR Commander, Northwestern Division

SUBJECT: Implementation of Section 544 of the Water Resources Development Act of 2000

1. Purpose. The purpose of this memorandum is to provide implementation guidance for section 544 of the Water Resources Development Act of 2000, PL 106-541 (WRDA 2000).
2. Section 544 of WRDA 2000 directs the Secretary to conduct studies and implement critical restoration projects in the area of Puget Sound, Washington and adjacent waters, including the watersheds that drain directly into Puget Sound, Admiralty Inlet, Hood Canal, Rosario Strait, and the Strait of Juan de Fuca to Cape Flattery. The projects will produce, consistent with Federal programs, projects, and activities, immediate and substantial ecosystem restoration, preservation and protection benefits. Section 544 authorizes the Secretary, in consultation with the Secretary of Commerce, the Secretary of the Interior, the Governor of the State of Washington, tribal governments, and the heads of other appropriate Federal, State, and local agencies, to develop criteria and procedures for prioritizing projects. Additionally, project selection criteria and procedures must be consistent with fish restoration goals of the National Marine Fisheries Service and the State of Washington. In prioritizing projects for implementation, the Secretary shall consult with and consider the priorities of public and private entities that are active in Puget Sound watersheds, including the Salmon Recovery Funding Board, the Northwest Straits Commission, the Hood Canal Coordinating Council, county watershed planning councils and salmon enhancement groups. Selection of critical projects for review and approval shall consider studies and plans in existence at the time of WRDA 2000 enactment, as well as after enactment. The authorized appropriation for section 544 is \$40,000,000. The Federal share for a single restoration project is limited to \$5,000,000.
3. Studies under section 544 are subject to the cost sharing requirements of section 105 of WRDA 1986, as amended. Projects implemented under section 544 will be cost shared 65 percent Federal and 35 percent non-Federal, and up to 50 percent of the non-Federal share of project implementation costs can be in in-kind services. Operation and maintenance of projects is a non-Federal responsibility. Further, a Project Cooperation Agreement (PCA) must be signed with an appropriate non-Federal interest in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962-5b).
4. Projects under section 544 may be implemented in accordance with the general procedures for the Section 206 Continuing Authorities Program (see Appendix F of ER 1105-2-100). It is recognized that land values in the Puget Sound, Washington, area generally are high and that the market value of the lands, easements, rights-of-way, relocations, and dredged material disposal

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SUBJECT: Implementation of Section 544 of the Water Resources Development Act of 2000

areas (LERRD) required for a specific critical restoration project may exceed the non-Federal sponsor's 35 percent share of total project costs for that project. Therefore, a non-Federal sponsor may agree to waive reimbursement for the value of LERRD that exceeds its 35 percent share of total project costs. The amount of LERRD value for which reimbursement is waived by the non-Federal sponsor shall not be included in total project costs for cost sharing purposes. Notwithstanding that a non-Federal sponsor may agree to waive reimbursement for the value of LERRD as stated above, compliance with the following principles must continue:

- a. The estimated value of all project LER must be considered in comparison of alternatives for plan selection;
 - b. The project must be formulated so that only the lands necessary to implement the project are required for the project;
 - c. The non-Federal sponsor must comply with all applicable provisions of P.L. 91-646 (as amended) and implementing regulations, for all LER that it must acquire to implement the project; and
 - d. The project decision document must document that the non-Federal sponsor has voluntarily agreed to waive any reimbursement for the value of project LERRD as stated above, and the PCA must be appropriately revised and approved.
5. The district shall provide to Headquarters annual reports indicating accomplishments under this authority.

FOR THE COMMANDER:



WILLIAM R. DAWSON, P.E.
Chief, Planning and Policy Division
Directorate of Civil Works

11-Sept-06

**Puget Sound and Adjacent Waters Restoration Program
Sec. 544, WRDA 2000
Status of Project Work Elements**

Separable Element	Status	Schedule
Nooksack River Dam Removal	Awaiting sponsor letter-of-intent	Letter expected 15-Sept-06
Nisqually Estuary Restoration	Sponsor & USFW introductory meeting	Meeting tentatively scheduled 22-Sept-06
Comprehensive Feasibility Study	Coastal American (Federal Stakeholder) Meeting	Meeting scheduled 25-Sept-06
Lake Washington Gravel Nourishment	PCA approval pending resolution of USACE comments	Sign PCA 2-Oct-06
Seahurst Beach Restoration	Construction complete; completing real-estate appraisal for constructed site; discussing potential Phase II with sponsor	Appraisal evaluation due 1-Nov-06
Derelict Gear Restoration	Decision Document preparation underway	Decision Document submittal 15-Dec-06
Skokomish Estuary Restoration	Re-scoping project for island site	Decision Document submittal 1-Feb-07
Snohomish Estuary Restoration	Scoping project with sponsor	Decision Document 1-July-07